

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13781, of Exxon Co., USA., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 5101.41 for a proposed modification and enlargement to a gasoline service station in a C-1 District at the premises 5030 Connecticut Avenue, N.W., (Square 1985, Lots 5, 9, 10 and 11).

HEARING DATES: July 21, 1982 and September 22, 1982
DECISION DATE: September 22, 1982

ORDER

The subject application was originally scheduled for the public hearing of July 21, 1982, based on plans submitted with the application. Modified plans showing an expansion of the originally proposed "gas and go" operation were submitted by the applicant on July 16, 1982.

At the public hearing, the Board considered a Motion from the opposition, received July 6, 1982, requesting a continuance because the attorney for the opposition would be unavailable on that date, the opposition needed additional time to analyze the modified plans submitted by the applicant, and the opposition was not sure whether or not the modified plans would require a variance in addition to the requested special exception. The Office of Planning and Development and the D.C. Department of Transportation, by memorandum dated July 16, 1982 and July 20, 1982, also requested additional time to review and analyze the modified plans. The Counsel for the applicant, by response to the motion received July 8, 1982, and at the public hearing, stated that the applicant had no objection to the continuance provided that the case could be scheduled no later than September, 1982, and that the ANC did not object to the continuance. A representative of ANC 3F appeared at the hearing and stated that the ANC had no objection to the continuance. On a motion made by Lindsley Williams, seconded by Connie Fortune, the Board GRANTED the request for a continuance by a vote of 3-0 (Lindsley Williams, Connie Fortune and Charles R. Norris to GRANT the continuance; Douglas J. Patton and William F. McIntosh not present, not voting).

The application was continued to the public hearing of September 22, 1982 at 9:00 A.M. Proper notice of the application was given based on the information provided and

relief requested by the applicant at the time the application was filed, namely for a special exception to modify an enlarge an existing gasoline service station. At the public hearing, counsel for the applicant stated that a review of the plans subsequent to the advertisement but prior to the hearing revealed that a variance from the rear yard requirements was necessary and requested that the application be so amended.

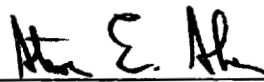
The Board finds that the plans have been a part of the public record since July 16, 1982, and further notes that the motion of the opposition to continue the case suggested that a variance may be required in light of the modified plans.

The Board concludes that the present application can not go forward. The need for a variance from the rear yard requirements constitutes a substantial change in the requested relief and burden of proof upon the applicant. Therefore, appropriate notice of the application in its present circumstances has not been given. It is therefore ORDERED that the application is DISMISSED as not properly before the Board.

VOTE: 4-0 (Lindsley Williams, Connie Fortune, William F. McIntosh and Charles R. Norris to DISMISS;
Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: OCT 12 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."